

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1066

Introduced by Dierks, 40.

Read first time January 21, 2010

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section
2 77-2701.16, Reissue Revised Statutes of Nebraska; to
3 provide for sales and use tax on services as prescribed;
4 to provide an operative date; and to repeal the original
5 section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2701.16, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 77-2701.16 (1) Gross receipts means the total amount of
4 the sale or lease or rental price, as the case may be, of the
5 retail sales of retailers.

6 (2) Gross receipts of every person engaged as a public
7 utility specified in this subsection, as a community antenna
8 television service operator, or as a satellite service operator or
9 any person involved in connecting and installing services defined
10 in subdivision (2)(a), (b), or (d) of this section means:

11 (a)(i) In the furnishing of telephone communication
12 service, other than mobile telecommunications service as described
13 in section 77-2703.04, the gross income received from furnishing
14 ancillary services, except for conference bridging services, and
15 intrastate telecommunications services, except for value-added,
16 nonvoice data service; and

17 (ii) In the furnishing of mobile telecommunications
18 service as described in section 77-2703.04, the gross income
19 received from furnishing mobile telecommunications service that
20 originates and terminates in the same state to a customer with a
21 place of primary use in Nebraska;

22 (b) In the furnishing of telegraph service, the gross
23 income received from the furnishing of intrastate telegraph
24 services;

25 (c) In the furnishing of gas, electricity, sewer, and

1 water service, the gross income received from the furnishing of
2 such services upon billings or statements rendered to consumers for
3 such utility services;

4 (d) In the furnishing of community antenna television
5 service or satellite service, the gross income received from
6 the furnishing of such community antenna television service as
7 regulated under sections 18-2201 to 18-2205 or 23-383 to 23-388 or
8 satellite service; and

9 (e) The gross income received from the provision,
10 installation, construction, servicing, or removal of property used
11 in conjunction with the furnishing, installing, or connecting of
12 any public utility services specified in subdivision (2)(a) or
13 (b) of this section or community antenna television service or
14 satellite service specified in subdivision (2)(d) of this section,
15 except when acting as a subcontractor for a public utility,
16 this subdivision does not apply to the gross income received by
17 a contractor electing to be treated as a consumer of building
18 materials under subdivision (2) or (3) of section 77-2701.10 for
19 any such services performed on the customer's side of the utility
20 demarcation point.

21 (3) Gross receipts of every person engaged in selling,
22 leasing, or otherwise providing intellectual or entertainment
23 property means:

24 (a) In the furnishing of computer software, the gross
25 income received, including the charges for coding, punching, or

1 otherwise producing any computer software and the charges for the
2 tapes, disks, punched cards, or other properties furnished by the
3 seller; and

4 (b) In the furnishing of videotapes, movie film,
5 satellite programming, satellite programming service, and satellite
6 television signal descrambling or decoding devices, the gross
7 income received from the license, franchise, or other method
8 establishing the charge.

9 (4) Gross receipts for providing a service means:

10 (a) The gross income received for building cleaning and
11 maintenance, pest control, and security;

12 (b) The gross income received for motor vehicle washing,
13 waxing, towing, and painting;

14 (c) The gross income received for computer software
15 training;

16 (d) The gross income received for installing and applying
17 tangible personal property if the sale of the property is subject
18 to tax. If any or all of the charge for installation is free to
19 the customer and is paid by a third-party service provider to the
20 installer, any tax due on that part of the activation commission,
21 finder's fee, installation charge, or similar payment made by the
22 third-party service provider shall be paid and remitted by the
23 third-party service provider;

24 (e) The gross income received for services of
25 recreational vehicle parks;

1 (f) The gross income received for labor for repair or
2 maintenance services performed with regard to tangible personal
3 property the sale of which would be subject to sales and use taxes,
4 ~~excluding motor vehicles,~~ except as otherwise provided in section
5 77-2704.26 or 77-2704.50;

6 (g) The gross income received for animal specialty
7 services except (i) veterinary services, (ii) specialty services
8 performed on livestock as defined in section 54-183, and (iii)
9 animal grooming performed by a licensed veterinarian or a licensed
10 veterinary technician in conjunction with medical treatment; ~~and~~

11 (h) The gross income received for detective services;
12 ~~and-~~

13 (i) The gross income received for the following services:
14 Alteration and garment repair; armored car; vehicle repair;
15 battery, tire, and allied; investment counseling; service charges
16 of all financial institutions; barber and beauty; boat repair;
17 campgrounds; carpentry; roof, shingle, and glass repair; dance
18 schools and dance studios; dating services; dry cleaning, pressing,
19 dyeing, and laundering; electrical and electronic repair and
20 installation; excavating and grading; farm implement repair of
21 all kinds; flying service; furniture, rug, carpet, and upholstery
22 repair and cleaning; fur storage and repair; golf and country clubs
23 and all commercial recreation; gun and camera repair; house and
24 building moving; household appliance, television, and radio repair;
25 jewelry and watch repair; lawn care, landscaping, and tree trimming

1 and removal; limousine service, including driver; machine operator;
2 machine repair of all kinds; motor repair; motorcycle, scooter,
3 and bicycle repair; oilers and lubricators; office and business
4 machine repair; painting, papering, and interior decorating;
5 parking facilities; pay television; pipe fitting and plumbing;
6 wood preparation; executive search agencies; private employment
7 agencies, excluding services for placing a person in employment
8 where the principal place of employment of that person is to
9 be located outside of the state; reflexology; sewage services
10 for nonresidential commercial operations; sewing and stitching;
11 shoe repair and shoeshine; sign construction and installation;
12 storage of household goods, mini-storage, and warehousing of raw
13 agricultural products; swimming pool cleaning and maintenance;
14 tanning beds or salons; taxidermy services; telephone answering
15 service; test laboratories, including mobile testing laboratories
16 and field testing by testing laboratories, excluding tests on
17 humans or animals; tin and sheet metal repair; transportation
18 service consisting of the rental of recreational vehicles or
19 recreational boats, or the rental of motor vehicles subject to
20 registration which are registered for a gross weight of thirteen
21 tons or less for a period of sixty days or less, or the rental
22 of aircraft for a period of sixty days or less; massage and
23 reducing salons, excluding services provided by massage therapists
24 licensed under the Uniform Credentialing Act; water conditioning
25 and softening; weighing; welding; well drilling; wrapping, packing,

1 and packaging of merchandise other than processed meat, fish, fowl,
2 and vegetables; wrecking service; and solid waste refuse collection
3 and recycling services.

4 (5) Gross receipts includes the sale of admissions which
5 means the right or privilege to have access to or to use a place
6 or location. An admission includes a membership that allows access
7 to or use of a place or location, but which membership does not
8 include the right to hold office, vote, or change the policies of
9 the organization. When an admission to an activity or a membership
10 constituting an admission pursuant to this subsection is combined
11 with the solicitation of a contribution, the portion or the amount
12 charged representing the fair market price of the admission shall
13 be considered a retail sale subject to the tax imposed by section
14 77-2703. The organization conducting the activity shall determine
15 the amount properly attributable to the purchase of the privilege,
16 benefit, or other consideration in advance, and such amount shall
17 be clearly indicated on any ticket, receipt, or other evidence
18 issued in connection with the payment.

19 (6) Gross receipts includes the sale of live plants
20 incorporated into real estate except when such incorporation is
21 incidental to the transfer of an improvement upon real estate or
22 the real estate.

23 (7) Gross receipts includes the sale of any building
24 materials annexed to real estate by a person electing to be taxed
25 as a retailer pursuant to subdivision (1) of section 77-2701.10.

1 (8) Gross receipts includes the sale of and recharge of
2 prepaid calling service and prepaid wireless calling service.

3 (9) Gross receipts includes the retail sale of digital
4 audio works, digital audiovisual works, digital codes, and digital
5 books delivered electronically if the products are taxable when
6 delivered on tangible storage media. A sale includes the transfer
7 of a permanent right of use, the transfer of a right of use that
8 terminates on some condition, and the transfer of a right of use
9 conditioned upon the receipt of continued payments.

10 (10) Gross receipts does not include:

11 (a) The amount of any rebate granted by a motor vehicle
12 or motorboat manufacturer or dealer at the time of sale of the
13 motor vehicle or motorboat, which rebate functions as a discount
14 from the sales price of the motor vehicle or motorboat; or

15 (b) The price of property or services returned or
16 rejected by customers when the full sales price is refunded
17 either in cash or credit.

18 Sec. 2. This act becomes operative on January 1, 2011.

19 Sec. 3. Original section 77-2701.16, Reissue Revised
20 Statutes of Nebraska, is repealed.